

CHAPTER 5

CREDIT CARDS AND CREDIT CARD BANKS

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7-5-1. Short title.

This chapter shall be known and may be cited as "The Credit Card and Credit Card Bank Act."

(Code 1981, 7-5-1, enacted by Ga. L. 1987, p. 268, 1.)

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7-5-2. Definitions.

As used in this chapter, the term:

(1) "Affiliate" means the same as that set forth in paragraph (1) of Code [Section 7-1-4](#).

(2) "Commissioner" and "department" shall have the meanings provided in paragraphs (13) and (16) of Code [Section 7-1-4](#).

(3) "Credit card" means any type of arrangement or loan agreement pursuant to which a domestic lender or credit card bank gives a debtor the privilege of using a credit card or other credit confirmation or device of any type in transactions out of which debt arises:

(A) By the domestic lender or credit card bank honoring a draft or similar order for the payment of money created, authorized, issued, or accepted by the debtor; or

(B) By the domestic lender or credit card bank paying or agreeing to pay the debtor's obligation.

(4) "Credit card account" means an arrangement between a domestic lender or credit card bank and a debtor for the creation of debt pursuant to a credit card and under which:

(A) The domestic lender or credit card bank may permit the debtor to create debt from time to time;

(B) The unpaid balance of principal of such debt and the loan, finance, or other appropriate charges are debited to an account;

(C) A loan finance charge is computed or an interest rate imposed upon the outstanding balances of the debtor's account from time to time; and

(D) The domestic lender or credit card bank is to render bills or statements to the debtor at regular intervals, the amount of which bills or statements is payable by and due from the debtor on a specified date as stated in such bill or statement or, at the option of the debtor, but subject to the terms and conditions of the credit card account, may be paid by the debtor in installments.

(5) "Credit card bank" means a national bank located in this state or a bank organized under the laws of this state which, in either event, the activities of which are limited to those permitted under Code [Section 7-5-3](#).

(6) "Domestic lender" means any bank, savings and loan association, savings bank, credit union, or other business organization organized or chartered under the laws of this state or the United States, which in any event is authorized by law to accept deposits and make loans and has its principal place of business in this state.

(7) "Foreign lender" means any bank, savings and loan association, savings bank, credit union, or other business organization organized or chartered under the laws of the United States, or any state other than this state, or the District of Columbia, which in any event is authorized by law to accept deposits and make loans and has its principal place of business outside this state.

(8) For purposes of this chapter, "holding company" means any company that controls a domestic or foreign lender or a credit card bank. The term "company" and "control" shall have the meanings set forth in Code [Section 7-1-605](#).

(9) "Qualifying organization" means a corporation, partnership, or other entity which at all times maintains an office in the State of Georgia at which it employs at least 250 persons residing in this state who are directly or indirectly engaged in providing the following services, either for the qualifying organization or on behalf of other domestic or foreign lenders or credit card banks:

(A) The distribution of credit cards or other devices designed and effective to access credit card accounts;

(B) The preparation of periodic statements of amounts due under credit card accounts;

(C) The receipt from credit card holders of amounts paid on or with respect to such accounts;
or

(D) The maintenance of financial records reflecting the status of such accounts from time to time.

The term "qualifying organization" shall also include any domestic bank and credit card bank satisfying the employment and activities requirements set forth in this paragraph.

(Code 1981, 7-5-2, enacted by Ga. L. 1987, p. 268, 1; Ga. L. 1988, p. 13, 7; Ga. L. 1999, p. 674, 41.)

7-5-3. Organization of credit card banks.

Subject to the provisions of this chapter and to the approval of the commissioner, any domestic lender, foreign lender, or holding company may organize, own, and control a credit card bank on the terms and conditions provided in this Code section:

(1) If the credit card bank is to be organized under the laws of this state, such bank shall be organized as provided in Part 8 of Article 2 of Chapter 1 of this title;

(2) In connection with the application to organize, or to own and control a credit card bank, the applicant shall pay applicable fees established by regulation of the department to defray the costs of the investigation and review of the application;

(3) The shares of a credit card bank shall be owned solely by a domestic lender, a foreign lender, or a holding company;

(4) The credit card bank shall conduct its limited deposit taking business only from a single location in this state;

(5) The credit card bank shall at all times maintain capital stock and paid-in surplus as required by regulatory policies of the department but in no event less than \$2 million;

(6) The credit card bank may only engage in the business of soliciting, processing, and making loans pursuant to credit card accounts and conducting such other activities as may be necessary incidents thereto;

(7) The credit card bank may not accept demand deposits or deposits that the depositor may withdraw by check or similar means for payment to third parties or others, and it may not accept savings or time deposits of less than \$100,000.00;

(8) The credit card bank must operate in a manner that is not likely to attract customers from the general public in this state to the substantial detriment of other domestic lenders;

(9) The credit card bank shall have, within one year of the date it commences operations, no fewer than 50 employees located in this state devoted to its credit card activities; provided, however, where the credit card bank contracts with a qualifying organization for the performance of services incidental to offering credit card activities, the minimum number of employees in this state shall be determined by the commissioner at a level to assure the continued and substantive presence of the credit card bank in this state for the purpose of conducting its corporate affairs and performing the credit underwriting function and such other activities not subject to contract with the qualifying organization as may be incidental to its servicing of credit card accounts; and

(10) A domestic lender is not required to establish a credit card bank to issue credit cards and create credit card accounts.

(Code 1981, 7-5-3, enacted by Ga. L. 1987, p. 268, 1; Ga. L. 1999, p. 674, 42; Ga. L. 2003, p. 843, 23; Ga. L. 2004, p. 631, 7.)

7-5-4. Credit card charges and fees.

(a)(1) Notwithstanding the provisions of any other law prescribing, regulating, or limiting interest rates, any domestic lender or credit card bank may charge and collect in connection with a credit card account:

(A) Finance charges at such periodic interest rate or rates computed or imposed on the outstanding balances on the credit card account in any manner as provided in the written agreement governing such credit card account, and such periodic interest rate or rates may vary from time to time in accordance with a schedule or formula contained in such agreement; and

(B) Such other fees and charges as the domestic lender or credit card bank and the debtor may agree upon in the written agreement governing the credit card account, including, but not limited to, cash advance charges, charges for exceeding preestablished credit limits, late fees, delinquency or default charges, returned payment charges, stop payment charges, automated teller machine charges or similar electronic or interchange fees or charges, annual or membership fees, application fees, transaction fees and minimum charges for each scheduled billing period, premiums for credit life, accident, health, or loss of income insurance, documentary evidence fees, fees or charges for services rendered or for reimbursement of expenses incurred by any domestic lender or credit card bank or their respective agents in connection with the credit card account, and other fees incident to the application for or the opening, administration, and termination of the credit card account, including, without limitation, commitment, application, and processing fees, official fees and taxes, and costs incurred by reason of examination of title, title insurance, inspection, appraisal, recording, mortgage satisfaction, filing fees, or other formal acts necessary or appropriate to the security for the credit card account.

(2) For the purposes of this Code section, Section 85 of the National Bank Act (12 U.S.C. Section 85), and Sections 521, 522, and 523 of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. Sections 1831d, 1831e, and 1831f), the finance charges under subparagraph (a)(1)(A) of this Code section and the charges and fees under subparagraph (a)(1)(B) of this Code section shall be deemed to be, and may be charged and collected as, interest by the domestic lender or credit card bank.

(b) The terms and conditions contained in the written agreement governing the credit card account between the domestic lender or credit card bank and the debtor shall be deemed to be material to the determination of interest, including, but not limited to:

(1) Those provisions relating to the computation and charging of finance charges authorized by subparagraph (a)(1)(A) of this Code section;

(2) The fees and charges authorized by subparagraph (a)(1)(B) of this Code section; and

(3) All other terms and conditions of such written agreement.

(c) A credit card account between any domestic lender or credit card bank and a debtor shall be governed solely by the laws of the State of Georgia and federal law unless otherwise expressly agreed in writing by the parties. A domestic lender or credit card bank may, as specified in the written agreement governing a credit card account, modify in any respect any terms or conditions of such credit card account, upon such prior written notice of such modification as specified by the terms of the written agreement governing the credit card account or by the Truth in Lending Act (15 U.S.C. Section 1601, et seq.). Any such notice provided by a domestic lender or credit card bank shall specify that the debtor has the right to surrender the

credit card whereupon the debtor shall have the right to continue to pay off his credit card account in the same manner and under the same terms and conditions as then in effect. The debtor's failure to surrender the credit card prior to the modification's becoming effective shall constitute a consent to the modification.

(Code 1981, 7-5-4, enacted by Ga. L. 1987, p. 268, 1; Ga. L. 1990, p. 1, 1; Ga. L. 1991, p. 94, 7; Ga. L. 1997, p. 143, 7; Ga. L. 1999, p. 674, 43; Ga. L. 2001, p. 4, 7.)

7-5-5. Regulation of credit card banks; enforcement; rules and regulations.

(a) All credit card banks organized under the laws of this state shall be subject to the supervision, regulation, and examination of the department, and the department shall have all enforcement powers with respect thereto as are provided in Chapter 1 of this title.

(b) In the event any credit card bank does not conduct its activities within the limitations provided in Code [Section 7-5-3](#), the department may require such credit card bank to cease all unauthorized activities. In the event such credit card bank fails to abide by such order, the department may in addition to all other rights, remedies, and powers it may have under Chapter 1 of this title:

(1) Impose upon the credit card bank or its parent holding company or domestic lender or foreign lender a penalty of up to \$10,000.00 per day for each day such order is violated; and

(2) Require divestiture of such credit card bank by any domestic lender, foreign lender, or holding company not qualified to acquire such credit card bank on the date it ceased to operate within the limitations imposed by Code [Section 7-5-3](#) and became a "bank" for purposes of Part 18 or Part 19 of Article 2 of Chapter 1 of this title.

(c) The department shall have the power to promulgate rules and regulations implementing the provisions of this chapter.

(Code 1981, 7-5-5, enacted by Ga. L. 1987, p. 268, 1.)

7-5-6. Applicability of banking laws.

(a) A credit card bank shall be subject to the provisions of Chapter 1 of this title except when any rights, powers, privileges, or provisions of Chapter 1 of this title are inconsistent with the rights, powers, privileges, provisions, or limitations of this chapter.

(b) A credit card bank shall not be considered a "bank" for the purposes of Part 18 or Part 19 of Article 2 of Chapter 1 of this title; provided, however, every domestic lender, foreign lender, or holding company owning a credit card bank shall be subject to the provisions of Code [Section 7-1-607](#), which concerns registration, reporting, and examination.

(Code 1981, 7-5-6, enacted by Ga. L. 1987, p. 268, 1; Ga. L. 1999, p. 674, 44.)

7-5-7. Penalties for violation of chapter.

Repealed by Ga. L. 1987, p. 268, 1, effective March 19, 1987.